

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TAYA M NICOL
Claimant

ZSAVOOZ
Employer

APPEAL NO. 22A-UI-00451-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/14/21
Claimant: Appellant (2)**

Iowa Code § 96.5-1 – Voluntary Quit
Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 22, 2021, reference 03, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on January 26, 2022. Claimant participated and was represented by Marlon Mormann. Employer participated by Nick Roberts. Claimant's Exhibit A was admitted into evidence.

ISSUES:

Whether claimant quit for good cause attributable to employer?

Whether claimant is able and available for work?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on March 16, 2020. After that claimant asked to be on leave for Covid-related reasons. Employer had ongoing part time work available for claimant had she been able to work after the date of June 18, 2020. Claimant was not able and available for work until late March 2021.

Employer asked claimant if she could work shifts in June of 2020. Claimant declined and asked to be kept on as an employee, although she would not be working, until further notice. Employer did not respond to this request from claimant.

Employer did testify that claimant had work available to her at any time she wished to end her leave.

Claimant continued to be off from work-although work was available to her - until late March of 2021. At that time, claimant chose to take employment with Longhorn Steakhouse. She believed that job to be a better job for her. Claimant has worked at Longhorn for an extended period of time.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code section 96.5(1)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

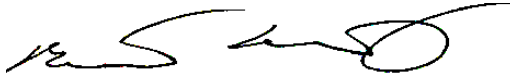
a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge holds that claimant was on a Covid-related leave of absence from March of 2020 through late March of 2021. Claimant ended her leave by ending her employment with Zsavooz in order to take other employment with Longhorn Steakhouse. At the time of separation, ongoing work was available at Zsavooz.

Claimant is not disqualified from benefits based on her quit from Zsavooz, as she quit for other employment. Employer is not held responsible for unemployment benefits received by claimant.

DECISION:

The decision of the representative dated November 22, 2021, reference 03, is reversed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible. Employer will not be held responsible should claimant receive unemployment benefits.



Blair A. Bennett
Administrative Law Judge

February 17, 2022
Decision Dated and Mailed

bab/scn